



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,394	01/09/2004	Eduard Karel De Jong	06502.0555-01000	7898

22852 7590 02/21/2006

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER

RAMAKRISHNAIAH, MELUR

ART UNIT	PAPER NUMBER
----------	--------------

2643

DATE MAILED: 02/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/753,394	Applicant(s) DE JONG, EDUARD KAREL	
	Examiner Melur Ramakrishnaiah	Art Unit 2643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-46, 49, 51-61, 64, 66-81, 84 and 86-90 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 41-46, 49, 51-61, 64, 66-70, 76-81, 84 and 86-90 is/are allowed.
- 6) ☒ Claim(s) 71-75 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4-28-04, 2-13-04</u> | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 71 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 71 includes a limitation such as executing a program included in the data message. Applicant's specification has no support for this limitation. Any mention of any program in the applicant's specification is on page 14 and lines 12-14 which describes the following: Moreover, this allows uploading of e.g. application program code (such as Java class files) to transmitting and receiving intelligent telephone devices. This hardly supports applicant's claim limitation mentioned above such as executing a program included in the data message.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 71, 72-73 are rejected under 35 U.S.C 102(b) as being anticipated by Moses et al. (US PAT: 4,425,642, hereinafter Moses).

Regarding claim 71, Moses discloses a method for transmitting data messages between devices configured to exchange voice messages over a communication channel, the method comprising: encoding a data message into an arrangement of signals, transmitting the signals over the communication channel from first one of the devices (fig. 3) to a second device (fig. 4) while the communication channel is configured to exchange voice messages, decoding the signals into the data message, and executing a program (this reads on decoding signals at the receiver sent by the remote device by correlation, col. 7 lines 9-13) indicated by or included in a data message (col. 3 lines 50-55, col. 4, line 39 – col. 7, line 18).

Regarding claim 72, Moses discloses a method for receiving a data message transmitted by a remote device over a communication channel that is used to exchange voice messages, the method comprising: receiving the data message transmitted from the remote device (fig. 3) over the communication channel as sequence of basic signals during a sequence of fixed time periods, wherein the data message is transmitted by the remote device during a period when the communication channel is available for exchanging the voice messages, decoding the data message to obtain digital data, and processing the digital data based on a corresponding type determined from the digital data (col. 3 lines 50-55, col. 4, line 39 – col. 7, line 18).

Regarding claim 73, Moses further teaches the following: digital includes at least one of program code, identification data corresponding to at least the remote device etc

Art Unit: 2643

(this reads on remote device sending alarm data to the receive device which inherently involves sending identification data, col. 5 lines 34-45, col. 7 lines 13-18).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 74-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moses in view of Crespo et al. (US PAT: 5,177,768, hereinafter Crespo) and Noma et al. (US PAT: 6,295,313, hereinafter Noma).

Regarding claim 74, Moses discloses a method for transmitting a data message to a remote device over a communication channel that is used exchange voice messages, the method comprising: configuring the data message as a digital data including a sequence of basic signals, and transmitting the data message to the remote device over the communication channel as a sequence of the basic signals during a sequence time periods, wherein the data message is transmitted during a period when the communication channel is available for exchanging voice messages, wherein remote device decodes the data message to obtain the digital data, and process the digital data based on corresponding type determined from the digital data (col. 3 lines 50-55, col. 4, line 39 – col. 7, line 18).

Moses differs from claim 74 in that although he discloses receiving signals transmitted from the remote device and reconstructing basic signals with magnitude

Art Unit: 2643

(col. 7 lines 6-13); he does not teach the following: determining frequency characteristics of the communication channel, and determining basic signal that has an amplitude based on determined channel's frequency characteristics.

However, Noma teaches determining frequency characteristic of the communicational channel to process the received signals (col. 5 lines 41-45); and Crespo teaches decoding the transmitted signals to generate estimate of data symbols, based on frequency characteristic of the communication channel (col. 2 lines 13-68, col. 18 lines 31-50) which implies deriving magnitude of the transmitted signals,

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Moses' system to provide for determining frequency characteristics of the communication channel, and determining basic signal that has an amplitude based on determined channel's frequency characteristics as this arrangement would facilitate determining transmitted signals subject to channel characteristics during transmission to obtain correct transmitted data as taught by Noma and Crespo.

Regarding claim 75, Moses further teaches the following: digital includes at least one of program code, identification data corresponding to at least the remote device etc (this reads on remote device sending alarm data to the receive device which inherently involves sending identification data, col. 5 lines 34-45, col. 7 lines 13-18).

7. Claims 41-46, 49, 51-61, 64, 66-70, 76-81, 84, 86-90 are allowed.

Response to Arguments

8. Applicant's arguments filed on 12-13-2005 with respect to claims 71-75 have been fully considered but they are not persuasive.

Rejection of claims 71, 72-73 under 35 U.S.C 102(b) as being anticipated by Moses et al. (US PAT: 4,425,642, hereinafter Moses): regarding rejection of claim 71 using the above reference, Applicant argues that "Although Moses et al. discloses a system that enables digital data signals to be simultaneously transmitted with voice signals, the system of Moses et al. does not teach at least a executing a program included in a data message that has been decoded from the transmitted signals, as asserted by the Examiner. Instead, Moses, et al. states ... This is not indicative of a program that is included in a data message formed from decoded signals transmitted over the communication channel, as recited in claim 71". Regarding this, Applicant is not consistent in his arguments as evidenced by the fact that first he recites that executing a program included in a data message that has been decoded from the transmitted data signals, then he recites that this is not indicative of a program included in a data message formed from the decoded signals transmitted over the communication channel. As can be seen from above, first he says executing a program included in a data message and then he says program included in a data message that has been decoded from the transmitted data signals. However, neither of them have any support in applicant's disclosure as pointed above under 112 first paragraph rejection. However, Moses teaches reconstruction of transmitted signals (like data signals such as alarm signals) which is based on correlation of signals with received signals (col. 7 lines 6-17) which implies executing a program such that correlation can be obtained between received signals and signals used for correlation which reads on applicants claim limitation such as executing a program.

Regarding rejection of claim 72 using Moses et al. reference, Applicant argues that "Contrary to the Examiner's allegation, Moses et al. does not teach receiving the data message transmitted from the remote device over the communication channel as a sequence of basic signals during a sequence of fixed time periods. Instead Moses et al. discloses a system ... Thus, Moses et al. does not show a data message that is transmitted as a sequence of basic signals, as recited in claim 72". Regarding this, contrary to applicant's interpretation of Moses et al. reference, Moses et al. teaches multi frequency transmission using a basic plurality of fundamental frequencies (col. 3 lines 51-55) and receiving them at a receiver and reconstructing data signal (col. 7 lines 8-13). This clearly implies receiving the data message transmitted from the remote device over the communication channel as a sequence of basic signals during a sequence of fixed time periods because the reference teaches transmitting plurality of basic signals and receiving them at a receiver to reconstruct the data signal.

Rejection of claim 74 under 35 U.S.C as being obvious over Moses in view of Crespo et al. (US PAT: 5,177,768, hereinafter Crespo) and Noma et al. (US PAT: 6,295,313, hereinafter Noma): amended claim 74 includes the limitations similar to dependent claim 45 which was rejected in the office action dated 9-14-2005 using Moses in view of Crespo. Regarding this rejection Applicant argues that "Contrary to the Examiner's assertions, having a filter that produces some signal ... does not show or suggest basic signals having an amplitude that is based on a determined frequency characteristic of the communication channel, as recited in claim 74". Regarding this, Moses teaches obtaining basic signals having an amplitude (col. 7 lines 9-13). Moses

Art Unit: 2643

does not teach determining basic signals having an amplitude that is based on a determined frequency characteristic of the communication channel. However, Noma teaches determining frequency characteristic of the communicational channel to process the received signals (col. 5 lines 41-45); and Crespo teaches decoding the transmitted signals to generate estimate of data symbols, which implies deriving magnitude of the transmitted signals, based on frequency characteristic of the communication channel (col. 2 lines 13-68). By using teachings of Noma and Crespo in Moses, one of ordinary skill in the art at the time invention was made would be able obtain applicant's claim limitation such as basic signals having an amplitude that is based on a determined frequency characteristic of the communication channel in order to obtain correct transmitted signals subject to channel characteristics during transmission to obtain correct transmitted data as taught by Noma and Crespo.

9. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melur Ramakrishnaiah whose telephone number is (571)272-8098. The examiner can normally be reached on 9 Hr schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curt Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Melur Ramakrishnaiah
Primary Examiner
Art Unit 2643